IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FIFTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA, THE CHIEF JUSTICE

and
THE HON'BLE SRI JUSTICE C.V.RAMULU

WRIT PETITION NO : 17728 of 2004

Between:

M/s. Malineni Perumalla Educational Society Unit Maleneni Lakshmaiah Engineering College, rep by its Secretary and Correspondent Malineni Lakshmaiah, S/o. Perumallu, aged 50 years R/o. Singarayakonda, Prakasam District.

..... PETITIONER

AND

1. The Asst. Provident Fund Commissioner, Sub-Regional Office, 3rd line, Krishna Nagar, Gutur.
2. The Union of India, Ministry of Finance, rep by its Secretary, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction more particularly one in the nature of WRIT OF MANDMAUS (A) declaring the action of the 1st respondent in taking coercive steps against the petitioner pursuant to the proceedings of the 1st respondent in order No. AP39904/7A/SRO/GNT/PRMI/Comp.III/04/694 dated 16-07-2004 and the subsequent proceedings of the 1st respondent in AP/SRO/GNT/PRMI/Comp.III/04/878 dated 16-08-2004 as illegal and arbitrary and contrary to the provisions of the Act and direct the 1st respondent not to take coercive steps against the petitioner in pursuance of the above said proceedings till the Appeal No. 703(1)/2004 filed by it before the Employees Provident Fund Tribunal, New Delhi is disposed off; (b) To direct the 2nd respondent to appoint a presiding officer to the Appellate Tribunal for adjudication of the matter pending

before it, including the appeal filed by the petitioner and (c) to declare Section 7-O of the Employees Provident Fund Act, 1952 and the second proviso to rule 7 of the Employees Provident Fund appellate Tribunal (procedure) Rule 1997 as illegal, unreasonable, arbitrary and violative of the article 14 of the Constitution of India.

Counsel for the Petitioner: Mr.T.RAJENDRA PRASAD

Counsel for the Respondent No.2: Mr.A.RAJASHEKAR REDDY (SC FOR CG)

Counsel for the Respondent No.1: Mr.R.N.Reddy.

The Court made the following :

ORAL ORDER:

(per The Honourable Sri Devinder Gupta, the Chief Justice)

We have considered the submissions made before us. We have disposed of number of similar matters with direction that no effect will be given to the orders impugned in the Writ Petition in the event of the petitioner depositing 50% of the amount demanded within a period of eight weeks from today after adjusting the amount if any already deposited or withdrawn by the respondents from the petitioner's bank, with liberty reserved to the petitioner to pursue the remedy of appeal in accordance with law by taking in the appeal all the grounds taken herein as challenge to the order impugned in the Writ Petition.

Accordingly, this Writ Petition is disposed of with direction that the appeal preferred by the petitioner will be entertained and decided on merits in accordance with law on the petitioner depositing the aforesaid amount within a period of eight weeks from today, and, the deposit so made will be subject to the result of the appeal. No costs.

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DEVINDER GUPTA, C.J.

5.10.2004.

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C.V.RAMULU, J.

VR.

Note:

Communicate operative portion by wire

at party’s cost.

(BO)

VR.

To

1. The Asst. Provident Fund Commissioner, Sub-Regional Office, 3rd line, Krishna Nagar, Guntur.
2. The Secretary to the Union of India, Ministry of Finance,New Delhi.

3. Two CD copies.